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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 09/908,963 | 07/19/2001 | Itshak Bergel | INTL-0603-US (P11744) | 1926 |
| 21906 | 7590 | 03/30/2004 | EXAMINER | |
| TROP PRUNER & HU, PC 8554 KATY FREEWAY SUITE 100 HOUSTON, TX 77024 | | | SMITH, SHEILA B | |
| | | ART UNIT | PAPER NUMBER | 2681 |
| DATE MAILED: 03/30/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/908,963 | BERGEL, ITSHAK | |
| | Examiner | Art Unit | |
| | Sheila B. Smith | 2681 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12/29/03
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 27-30 is/are allowed.
- 6) Claim(s) 1-4,6,9-13,15,16 and 22-26 is/are rejected.
- 7) Claim(s) 5,7,8 and 14-21 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4,9,12, rejected under 35 U.S.C. 102(e) as being anticipated by Hottinen et al. (U.S. Patent Publication 2002/0105961).

Regarding claims 1,12, Hottinen et al. discloses all the claimed invention as set forth in the instant application, also Hottinen et al. discloses a transmit diversity method and system, in addition Hottinen et al. discloses a determining for a channel, channel prediction terms (which reads on paragraph 0043) from both first channel estimation terms derived from first common pilot channel signal (which reads on paragraphs 0077) and second channel estimation terms derived from second common pilot channel signal (which reads on paragraphs 0077); and enabling control over future transmission patterns of the channel using the channel prediction terms (which reads on paragraphs 0077) and exhibited in figure 3.

Regarding claims 2, Hottinen et al. discloses all the claimed invention as set fourth in the instant application, also Hottinen et al. discloses a transmit diversity method and system, in addition Hottinen et al. discloses a predicting a future state of the channel at a specified time based on the channel prediction terms (which reads on paragraph 0043).

Regarding claims 3, Hottinen et al. discloses all the claimed invention as set fourth in the instant application, also Hottinen et al. discloses a transmit diversity method and system, in addition Hottinen et al. discloses a storing the first and second channel estimation terms in order to determine the channel prediction terms in response to the first and second common pilot channel signals respectively (which reads on paragraphs 0077).

Regarding claims 4, 9, Hottinen et al. discloses all the claimed invention as set fourth in the instant application, also Hottinen et al. discloses a transmit diversity method and system, in addition Hottinen et al. discloses a adaptively calculating the channel prediction terms from the first and second channel estimation terms in one or more iterations (which reads on paragraphs 0043).

Regarding claim 6, Hottinen et al. discloses everything claimed, as applied above (see claims 1) however, Hottinen et al. fails to specifically discloses calculating includes receiving one or more weighted values associated with one or more antennas of a plurality of antennas (which reads on paragraphs 0016) where said first common pilot channel signal is from a first antenna of the plurality of antennas and said second common pilot channel signal is from a second antenna of the plurality of antennas (which reads on paragraphs 0077).

Regarding claim 10, Hottinen et al. discloses everything claimed, as applied above (see claims 1) however, Hottinen et al. fails to specifically discloses a first estimation terms

correspond to a channel estimation term calculated in at least one iteration prior to a current iteration of the one or more iterations (which reads on paragraphs 0077).

Regarding claim 11, Hottinen et al. discloses everything claimed, as applied above (see claims 1) however, Hottinen et al. fails to specifically discloses the second channel estimation terms correspond to a channel estimation term calculated in the current iteration (which reads on paragraphs 0077).

Regarding claim 13, Hottinen et al. discloses everything claimed, as applied above (see claims 1) however, Hottinen et al. fails to specifically discloses provide feedback having the at least one weighted value of the one or more weighted values to the first and second antennas of the plurality of antennas (which reads on paragraphs 0077).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15,16,22-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Hottinen et al. in view of Komatsu (U.S. Patent Publication 2001/0046873).

Regarding claims 15,16, Hottinen discloses everything claimed, as applied above (see claims 1) additionally Hottinen discloses channel prediction terms from both first channel estimation terms derived from first common pilot channel signal and second channel estimation terms derived from second common pilot channel signal (which reads on paragraphs 0077); and

enabling control over future transmission patterns of the channel using the channel prediction terms (which reads on paragraphs 0077) and exhibited in figure 3. However, Hottinen fails to specifically discloses a communication interface; and a processor communicatively coupled to the communication interface.

In the same field of endeavor, Komatsu discloses a mobile terminal for transmission diversity CDMA communication system. In addition Komatsu discloses the use of a communication interface (9); and a processor (20) communicatively coupled to the communication interface (9), (which reads on paragraphs 0042).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to improve Hottinen by modifying a transmit diversity method and system with the use of a communication interface, and a processor communicatively coupled to the communication interface, as taught by Komatsu for the purpose of saving on waste of transmit power.

Regarding claims 22-24, they disclose an apparatus corresponding to the method of claims 1-4. The apparatus is inherent in that it simply provides structure for the logical implementation found in claims 1-4.

Regarding claims 25,26, Hottinen discloses everything claimed, as applied above (see claims 1) however, Hottinen fails to specifically disclose provide feedback having the at least one weighted value of the one or more weighted values to the first and second antennas of the plurality of antennas (which reads on paragraphs 0077).

Allowable Subject Matter

4. Claims 5,7-8,14,17-21, objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 27-30 are allowed.

Response to Arguments

6. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (703)305-0104. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Erika Gary can be reached on 703-308-0123. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Smith
March 22, 2004


TEMICA M. DAVIS
PATENT EXAMINER